

REVISED DRAFT
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**Environmental Justice Implementation Plan
for the California Department Of Pesticide Regulation**

Environmental Justice Definition: “The fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (California Government Code Section 65040.12)

BACKGROUND

California Environmental Protection Agency Mandates

California law mandates broad responsibilities for California Environmental Protection Agency (Cal/EPA) and its boards, departments, and offices (BDOs) to incorporate environmental justice goals into their policies and programs. The law requires the formation of an interagency working group made up of the Cal/EPA Secretary, BDO chiefs, and the director of the State Office of Planning and Research (OPR). It also mandates formation of an external advisory group to the working group. These groups are to assist Cal/EPA in developing an agencywide environmental justice strategy and to provide procedural recommendations to ensure meaningful public participation in Cal/EPA activities.

Cal/EPA is specifically required by statute to do the following:

1. Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations of the state.
2. Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations in the state.
3. Ensure greater public participation in the Agency's development, adoption, and implementation of environmental regulations and policies.
4. Improve research and data collection for programs within the agency relating to the health and environment of people of all races, cultures, and income levels, including minority and low-income populations of the state.
5. Coordinate efforts and share information with the U.S. Environmental Protection Agency.
6. Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the Agency.
7. Consult with and review any information received from the working group on environmental justice established to assist Cal/EPA in developing an agency-wide strategy that meets the above requirements.

Development of the Cal/EPA Environmental Justice Strategy must include the following activities, as required by Public Resources Code Section 71113:

1. Examine existing data and studies on environmental justice and consult with state, federal, and local agencies, and affected communities.
2. Identify and address any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.
3. Develop procedures for the coordination and implementation of intra-agency environmental justice strategies.
4. Collect, maintain, analyze, and coordinate information relating to environmental justice.
5. Develop procedures to ensure that public documents, notices, and public hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. Develop guidance for determining when it is appropriate for Cal/EPA or its BDOs to translate crucial public documents, notices, and hearings relating to human health or the environment for limited English-speaking populations.
6. Make a draft available to the public and hold public meetings to receive and respond to public comment before finalizing the strategy.

DPR Implementation

This is an implementation plan for incorporating environmental justice principles into Department of Pesticide Regulation (DPR) programs, policies, and activities. DPR's environmental justice policy follows Cal/EPA's Environmental Justice Strategy.

We restate that environmental justice is the *fair treatment* and *meaningful involvement* of all people regardless of race, culture, and income with respect to the development, implementation, and enforcement of DPR regulations and policies. *Fair treatment* means that no one group of people, regardless of race, culture, or socioeconomic status, should bear a disproportionate share of negative health or environmental consequences resulting from pesticide use, or the execution of DPR programs and policies. *Meaningful involvement* means that: (1) potentially affected persons have an appropriate opportunity to participate in decisions that affect their environment and/or health; (2) the public's contribution can influence DPR's decision; (3) the concerns of all participants involved will be considered in the decisionmaking process; and (4) the decisionmakers seek out and facilitate the involvement of those potentially affected.

DPR Environmental Justice Plan Elements

Goal 1

DPR will provide and promote opportunities for communities and the public to be meaningfully involved in environmental decisionmaking.

The Department recognizes the validity and importance of community knowledge, and the value of local and grassroots experiences in informing the decisionmaking process. The Department has an obligation to ensure that those affected by decisions are equal players in the decisionmaking processes. DPR recognizes the limitations on the capacity of some communities to participate in processes.

DPR wants to enhance the participation of the public in state and local decisionmaking processes, and ensure that potentially affected parties are not overlooked or excluded. We recognize that meaningful public participation is an interactive dialogue, with DPR disseminating information on possible approaches, analyses, and decisions as well as receiving information, comments, and advice. To ensure meaningful participation, DPR will actively solicit input from communities, develop additional information on pesticides, make this information more accessible, and educate communities on the public process used to make state and local decisions.

Outreach and Involvement

- Seek out and facilitate the involvement of those primarily affected by DPR's decisions, programs, rulemaking, and policy development, recognizing that in doing so we have made a commitment to seriously consider the input of the public before making decisions that affect their health, welfare, or communities.
- Continue to initiate outreach efforts as early as possible in the decisionmaking process.
- Design outreach efforts to appropriately address the culture of the community to improve community participation.
- Use multiple ways of notifying the community of upcoming meetings, workshops, hearings and proposed action dates (e.g., electronic posting on Websites, announcements through local media, flyers at libraries, schools, community centers). Ensure that materials are distributed far enough in advance to allow community members sufficient time for review and comment.
- Hold meetings in affected communities at times and in places that encourage public participation, such as evenings and weekends, at centrally located and easily accessible meeting rooms, libraries, and schools.
- Enhance accessibility to information, including translating materials and documents when appropriate; making documents easily accessible in the community (either by physically providing copies at central locations, and/or posting them on DPR's Web site), and providing translation services at hearings and workshops as needed.
- Ensure final documentation on decisions communicates to participants how their input was considered.
- Develop and widely distribute a handbook for the public that identifies and explains public participation rights and opportunities.

- Consistent with right-to-know principles, improve access and utility of DPR data, especially pesticide use data.
- Continue and pursue opportunities to expand intergovernmental collaboration (for example, with U.S. EPA, U.S. FDA, Health Canada, and Mexico's Sanidad Vegetal) to leverage resources, avoid duplication of effort, and enhance effectiveness of public participation. Examples of effective interaction include U.S. EPA/DPR registration worksharing; the U.S./Mexico Pesticide Information Exchange; DPR/U.S. FDA memorandum of understanding on residue monitoring; and DPR/Mexican Residue Tracking Project.
- Improve the use of DPR's advisory committees by soliciting recommendations on how DPR can improve its programs in an equitable manner.

Hiring and Training

Hiring practices that provide a diverse work force, along with activities to promote and enhance staff understanding of environmental justice goals, help support meaningful public participation.

- Encourage DPR and county agricultural commissioner (CAC) staff to attend scheduled environmental justice, public participation, and similar training programs to increase their awareness of the principles of environmental justice and practices that foster it, including but not limited to greater community involvement, meaningful community outreach, and public accessibility of information.
- Maintain staff awareness of the importance of environmental justice by regularly discussing at managers/supervisors staff meetings environmental justice principles and DPR efforts to fulfill its EJ commitment.
- Highlight the importance of environmental justice priorities and accomplishments by featuring them in DPR's biennial progress reports.
- Ensure that hiring practices promote a diverse work force.

Goal 2

DPR will integrate environmental justice values and perspectives into the development, adoption, implementation, and enforcement of pesticide laws, regulations, and policies.

Fair treatment of all people is an overarching value guiding how we do business. We will ensure that environmental justice values and perspectives inform and illuminate our standard operating practices, and implement pesticide laws equally to ensure the improvement of the environment and/or public health of affected communities.

Precaution is a fundamental operating principle of the pesticide regulatory program, whose embodiment of the precautionary principle could serve as a model for government regulation of commercial chemicals. Pesticides and pharmaceuticals are unique among commercial chemicals in that manufacturers are required to generate and submit health and environmental data to regulators for evaluation before obtaining a license to sell their products. The presence of "conservative" (that is, cautious, health protective) assumptions and choices in these risk evaluations and in risk management makes DPR regulatory decisionmaking precautionary. Furthermore, use of pesticides in California is strictly controlled and tracked. Moreover, DPR has a program of continual evaluation of pesticides and pesticide use practices. The Department

uses the data collected to evaluate the effectiveness of DPR's regulatory programs and to assess the need for changes to prevent or minimize potential harm, even though no problems may have occurred.

Program Development and Implementation

- Consider environmental justice needs and priorities when creating or modifying programs, activities, regulations, and policies.
- Consult with communities and other stakeholders, and consider their priorities and concerns prior to developing or revising program elements, rules, or policies.
- Ensure that program development and adoption processes do not create new or worsen existing environmental justice problems.
- Identify staff members responsible for assuring that DPR properly considers and addresses existing and potential environmental justice problems.
- When establishing program development concepts, give high priority to environmental justice problems when they are identified and continue efforts until these problems are resolved.
- Use a public process to identify opportunities to advance environmental justice goals within the current statutory and regulatory structures, as well as any necessary changes or clarifications.
- Continue to structure agreements with CACs to target areas of highest risk, including worker protection inspections, illness investigations, applications of certain high-toxicity pesticides, and agricultural applications near homes, parks, and schools.

Program Enforcement

In this context, program enforcement refers to the activities undertaken to ensure that regulated entities comply with the requirements that apply to them, including DPR and CAC response to complaints from members of the public about illegal pesticide sales, use, and other problems.

- Prioritize enforcement resources to maximize the greatest public good, and identify opportunities to use enforcement as a means to deliver the benefits of environmental protections to all communities. Prepare state enforcement priorities to address areas of greatest risk.
- With the CACs, work vigorously to enhance pesticide use compliance, acknowledging that this increases protections for all California citizens. Continuously evaluate compliance with pesticide rules and regulations to ensure adequate enforcement resources are focused on areas of greatest need. Evaluate uniformity of compliance actions to ensure that all communities receive equitable protection.
- Ensure that enforcement actions taken by DPR and the County Agricultural Commissioners are commensurate with the seriousness of the offense and serve as a deterrent to similar occurrences.
- Improve the pesticide use permitting processes by increasing public access to the process and protection of all races, cultures, and incomes.
- Ensure enforcement investigations are conducted so as to reduce the potential for retaliation.
- Assure that all complaints are promptly and thoroughly investigated and feedback is provided to affected parties on actions taken. Continue to develop and distribute materials in various languages describing how workers and others can file complaints, including the right to file

anonymous complaints. Further improve the state and local response to pesticide incidents by working with CACs to develop effective complaint-resolution protocols that address language barriers, timeliness of response, investigation procedures, and feedback to the complainant.

- Work with environmental justice organizations, community groups, and other stakeholders to gather their input on the effectiveness and equitability of pesticide enforcement.
- Make DPR written policies and procedures on filing and investigating complaints easily accessible, including posting on the Web site.
- Continue to improve the accessibility of information regarding enforcement activities and actions.

Goal 3

DPR will assess the health and environmental risk of pesticides in a way that acknowledges any potential disproportionate impacts on communities of color and low-income populations.

Human health and environmental research and assessment are cornerstones of informed decisionmaking to ensure a healthy environment. DPR commits to enhancing its capability to address issues of disproportionate impacts of pesticide use on communities. The goal is not to shift risks among populations, but to identify potential disproportionately high and adverse effects and identify alternatives that may mitigate these impacts.

Assessing Risk

- Continue to conduct risk assessments taking into account sensitive populations, unique exposure scenarios, and cumulative impacts. For example, dietary risk assessments must consider how people of different races and ethnic groups consume different foods. Similarly, dietary risk assessments must acknowledge that children consume more food relative to their body weight than adults.
- Recognize that the impacts within minority populations, low-income populations, or Indian tribes may be different from impacts on the general population due to a community's distinct cultural practices. For example, data on different patterns of living, such as subsistence fish, vegetation, or wildlife consumption and the use of well water in rural communities may be relevant to the analysis. Incorporate these considerations into the data gathering and decisionmaking processes; for example, conducting studies to assess the potential exposure of Indian plant gatherers and users to forestry herbicides.
- Consult as needed with community groups and other interested parties to identify their concerns and perspective on exposure in their communities and their interest in participating in data collection efforts.
- Continue to give attention to evaluating pesticide data specific to California conditions, in particular to evaluating mechanisms of exposure to workers performing activities unique to California crops and microclimates.
- Extend and refine understanding of the mechanisms of pesticide exposure and improve data used in the risk assessment process by continuing to conduct human exposure monitoring studies, particularly among workers.

- Continue to take a comprehensive, multimedia approach to risk assessment, evaluating potential dietary, workplace, residential, and ambient air exposures.
- Mitigate unacceptable risks for all the identified races, cultures, and incomes. Through public participation, DPR will seek the views of affected populations on measures to mitigate a disproportionate, adverse human health or environmental effect on a low-income population, minority population, or Indian tribe.

Goal 4

DPR will continue to reduce pesticide risks to all Californians, with particular focus on workers and children.

Reducing Risk

- Fully consider the impacts of regulatory action. When regulatory restrictions are considered, conduct alternatives analyses to ensure that restrictions on the use of a pesticide do not result in increased use of other control measures that are more hazardous to worker or public health, or to the environment.
- When possible, mitigate pesticide or pest management problems by using a combination of regulatory action with promotion of voluntary adoption of reduced-risk pest management techniques.
- Continue to provide expertise in advising local agencies, including cities and park districts, on how to effectively implement reduced-risk pest management strategies.
- Grants and other opportunities can result in changes in pest management that reduce the risks from pesticides. Target grant programs and other pollution prevention resources to low-income and minority areas, particularly to assist community-based/grassroots organizations that are working on local solutions to local environmental problems.
- Promote efficient management of grants and contracts to ensure environmental and health concerns of affected communities are addressed.
- Reduce hazards in the home by providing informational materials in English and Spanish to the public about pesticide use and disposal.
- Continue surveillance and inspection activities to eliminate the sales of dangerous and/or illegal pesticides, many of which (like insecticidal chalk and methyl parathion) are targeted toward low-income and minority communities.
- Enhance the use of alternative pest control methods by promoting the IPM Innovators Awards program, which recognizes organizations and individuals who have pioneered reduced-risk pest management techniques.

Enhancing Worker Protection

The occupational setting poses the greatest risk of pesticide exposure. Many occupational settings involve workers of low-income and minority populations. DPR will continue to evaluate the risks to workers, identify ways to improve information exchange and improve access to information, improve the process to file complaints without fear of retaliation, and reduce worker illnesses.

- Periodically assess the implementation, enforcement, and effectiveness of worker safety rules and regulations, revising them as necessary to address identified problems.

- Ensure farmworker representatives have substantial input into decisions affecting their constituents.
- Periodically review DPR's registration and evaluation policies and procedures to ensure that worker protections are actively and adequately considered, for example, when deciding to allow continued use of existing stocks of a cancelled pesticide.
- Work with the CACs to develop protocols and guidelines that assist the Commissioners in responding effectively to pesticide incidents.
- Ensure that CAC staff have the skills needed to help employers achieve a safe pesticide workplace by providing training in inspection techniques, incident and illness investigation, industrial hygiene, and occupational safety.
- Improve investigation procedures to reduce the potential for retaliation.
- Work with the Department of Industrial Relations to resolve retaliation complaints.
- Continue efforts to improve physician reporting of pesticide-related illnesses.
- Improve the exchange of and access to pesticide information, especially by limited English-speaking populations.

Protecting Children

Pest management in schools can be done in a way that poses the least risk. The Department commits to continue to facilitate the adoption of integrated pest management (IPM) in schools, especially in rural and low-income areas. Specific actions include the following:

- Continue to update and improve the Department's School IPM Web site, www.schoolipm.info, to assist school administrators and others in implementing the Healthy School Act of 2000, which put into law DPR's existing voluntary IPM program and added new requirements.
- Continue to identify and train individuals designated by school districts to carry out school IPM. Hosting regional workshops that showcase model IPM programs and provide hands-on experience.
- Continue to assist districts to establish IPM policies and programs, in part by featuring model programs on the Web site and publicizing the Department's School IPM program at meetings attended by school district personnel.
- Continue to update and improve the School IPM Guidebook, getting feedback from school personnel to ensure it is tailored to the pest management needs of all sectors of California.
- Continue to provide information to districts on least-toxic alternatives for pest management needs.
- Periodically evaluate IPM adoption in schools and the technical, institutional, or economic constraints that might hamper wider IPM adoption in schools. Review outreach techniques and evaluate whether changes should be made.